

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
JOHN FLYNN	:	VIOLATIONS:
MICHAEL HOMAN	:	21 U.S.C. § 846 (conspiracy to distribute
MARK HOFFMAN	:	and possess with intent to distribute
	:	Schedule II controlled substances
	:	- 1 count)
	:	18 U.S.C. § 2118(d) (conspiracy to
	:	commit pharmacy burglary - 1 count)
	:	18 U.S.C. § 2118(b) (pharmacy burglary
	:	involving theft of controlled substances
	:	- 1 count)
	:	21 U.S.C. § 841(a)(1) (possession with
	:	intent to distribute Schedule II controlled
	:	substances - 1 count)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notice of forfeiture

UNDER SEAL

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

Introduction

At times material to this indictment:

1. The Controlled Substances Act, 21 U.S.C. §§ 801-971, governed the manufacture, distribution, and dispensing of controlled substances in the United States.
2. Various prescription drugs were scheduled substances under the Controlled Substances Act. There are five schedules of controlled substances – Schedules I, II, III, IV, and V. Drugs were scheduled into these levels based on their potential for abuse, among

other things. Abuse of Schedule II drugs may lead to severe psychological or physical dependence. Abuse of Schedule III drugs may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV drugs may lead to more limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III. 21 U.S.C. § 812(b)(2), (3) and (4).

3. Defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN, acquaintances residing in or near the Kensington area of Philadelphia, joined together to carry out the burglary of the Concordville Pharmacy (the pharmacy), located at 790 East Baltimore Pike in Concordville, Pennsylvania, registered with the Drug Enforcement Administration to possess and dispense controlled substances, specifically, pharmaceutical drugs in tablet and other forms.

4. As part of the conspiracy to commit pharmacy burglary, the defendants scouted, identified, and selected, the Concordville Pharmacy, which was a small, “mom and pop” pharmacy located in Concordville, in the Eastern District of Pennsylvania, from which they could steal and obtain various Schedule II, III, and IV controlled substances, containing, for example, oxycodone (e.g, OxyContin), amphetamine (e.g., Adderall), morphine, methylphenidate (e.g., Ritalin), and hydromorphone, each a Schedule II controlled substance. This “mom and pop” pharmacy was selected over a “chain” pharmacy due to the prevalence of low level security systems which could easily be disabled. The selected controlled substances were specifically chosen due to their high street value and ease of resale.

The Conspiracy

5. From on or about June 20, 2006 to on or about June 21, 2006, in Philadelphia and Concordville, in the Eastern District of Pennsylvania, and elsewhere, defendants

**JOHN FLYNN,
MICHAEL HOMAN, and
MARK HOFFMAN**

conspired and agreed, together and with others unknown to the grand jury, to knowingly and intentionally distribute and possess with intent to distribute approximately 3,429 tablets containing controlled substances, that is, OxyContin, oxycodone, morphine, Adderall, amphetamine, hydromorphone and Ritalin tablets, each a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C).

MANNER AND MEANS

6. It was a part of the conspiracy that defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN unlawfully broke into and entered the Concord Pharmacy in the early morning hours, at a time when the pharmacy was not open for business, and stole approximately 7,802 tablets containing controlled substances, of which 3,429 tablets were Schedule II pills, which had a street value in excess of \$39,000 and an aggregate replacement cost to the pharmacy owner and registrant of more than \$500.00, that is, approximately \$8,595.44. The defendants committed the pharmacy burglary, stole the pharmaceutical tablets, and transported the stolen pills to Philadelphia, with the intent to unlawfully sell and distribute the pills for profit.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its objects, defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN committed the following overt acts, among others, in the Eastern District of Pennsylvania, and elsewhere:

On or about June 21, 2006:

1. Defendants JOHN FLYNN, MICHAEL HOMAN and MARK HOFFMAN drove to the Concordville Pharmacy located at 790 East Baltimore Pike, Concordville in Pennsylvania.

2. Defendants JOHN FLYNN, MICHAEL HOMAN and MARK HOFFMAN broke into the pharmacy by prying open the front and rear doors to the pharmacy and stole pharmaceutical controlled substances including OxyContin, oxycodone, morphine, Adderall, amphetamine, hydromorphone and Ritalin tablets.

3. Defendants JOHN FLYNN, MICHAEL HOMAN and MARK HOFFMAN fled in a vehicle back to Philadelphia, where they divided up the stolen controlled substances among themselves for illegal sale and distribution on the street to others in return for cash.

All in violation of Title 21, United States Code, Section 846.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 and 5 and Overt Acts 1 through 3 set forth in Count One of this indictment are realleged here.

2. From on or about June 20, 2006, to on or about June 21, 2006, in the Eastern District of Pennsylvania, and elsewhere, defendants

**JOHN FLYNN,
MICHAEL HOMAN, and
MARK HOFFMAN**

conspired and agreed, together and with others unknown to the grand jury, to enter or attempt to enter, or remain in, without authority, the business premises or property of persons registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. § 822) with the intent to steal any material or compound containing any quantity of a controlled substance, and whose replacement value was not less than \$500, in violation of 18 U.S.C. § 2118(b).

MANNER AND MEANS

It was part of the conspiracy that:

3. Defendant MARK HOFFMAN selected the Concordville Pharmacy, located at 790 East Baltimore Pike in Concordville, Pennsylvania, to burglarize due to its location in a small strip mall in a rural area, and recruited defendants JOHN FLYNN and MICHAEL HOMAN to join with him in carrying out the burglary for the purposes of stealing controlled substances maintained inside the pharmacy for resale, particularly OxyContin and Percocet, Schedule II controlled substances, and then reselling them in the streets of Philadelphia.

OVERT ACTS

In furtherance of the conspiracy, defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN committed the following overt acts, among others, in the Eastern District of Pennsylvania and elsewhere:

1. Defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN drove to the Concordville Pharmacy (the pharmacy), located at 790 East Baltimore Pike in Concordville, Pennsylvania.
2. Under cover of darkness, during the early morning hours, while the pharmacy was closed for business, and without authority, defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN broke into and entered the pharmacy, using a crow bar to pry open the front door, cut telephone lines, disabled the alarm system, and when it was clear that police were not immediately responding to the location, made entry through the front door of the pharmacy.
3. Once inside the pharmacy, defendants JOHN FLYNN, MICHAEL HOMAN, and MARK HOFFMAN stole various Schedule II, III, and IV controlled substances, and left the premises.
4. After committing the burglary, defendants JOHN FLYNN, MICHAEL HOMAN and MARK HOFFMAN fled from the pharmacy and transported the stolen controlled substances by car back to Philadelphia where they were divided up among the three defendants for sale and distribution for profit on the streets of Philadelphia.

All in violation of Title 18, United States Code Section, 2118(d).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 5 set forth in Count One of this indictment are realleged here.
2. On or about June 21, 2006, in Concordville, in the Eastern District of Pennsylvania, defendants

**JOHN FLYNN,
MICHAEL HOMAN, and
MARK HOFFMAN,**

without authority, entered, and aided and abetted the entry of, the business premises a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, Concordville Pharmacy, located at 790 East Baltimore Pike, Concordville, Pennsylvania, with the intent to steal materials and compounds containing any quantity of a controlled substance, that is, OxyContin, oxycodone, morphine, Adderall, amphetamine, hydromorphone and Ritalin tablets, each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about June 21, 2006, in Concordville and Philadelphia, in the Eastern District of Pennsylvania, defendants

**JOHN FLYNN,
MICHAEL HOMAN, and
MARK HOFFMAN**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 3,429 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, morphine, Adderall, amphetamine, hydromorphone and Ritalin tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1), set forth in this indictment, defendants

**JOHN FLYNN,
MICHAEL HOMAN, and
MARK HOFFMAN**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses; and

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses.

2. If any of the property, subject to forfeiture, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be

subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to seek forfeiture of any other property of the defendants up to the

value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney